

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	
Inquiry into the status of deployment	:	10-0055
of telecommunications services to	:	
consumers under Section 13-407 of	:	
the Public Utilities Act.	:	

ORDER

By the Commission:

Section 13-407 of the Public Utilities Act ("Act") reads as follows:

The Commission shall monitor and analyze patterns of entry and exit and changes in patterns of entry and exit for each relevant market for telecommunications services, including emerging high speed telecommunications markets, and shall include its findings together with appropriate recommendations for legislative action in its annual report to the General Assembly.

The Commission shall also monitor and analyze the status of deployment of services to consumers, and any resulting "digital divisions" between consumers, including any changes or trends therein. The Commission shall include its findings together with appropriate recommendations for legislative action in its annual report to the General Assembly. In preparing this analysis the Commission shall evaluate information provided by telecommunications carriers that pertains to the state of competition in telecommunications markets including, but not limited to:

- (1) the number and type of firms providing telecommunications services, including broadband telecommunications services, within the State;
- (2) the telecommunications services offered by these firms to both retail and wholesale customers;
- (3) the extent to which customers and other providers are purchasing the firms' telecommunications services;
- (4) the technologies or methods by which these firms provide these services, including descriptions of technologies in

place and under development, and the degree to which firms rely on other wholesale providers to provide service to their own customers; and

- (5) the tariffed retail and wholesale prices for services provided by these firms.

The Commission shall at a minimum assess the variability in this information according to geography, examining variability by exchange, wirecenter, or zip code, and by customer class, examining, at a minimum, the variability between residential and small, medium, and large business customers. The Commission shall provide an analysis of market trends by collecting this information from firms providing telecommunications services within the State. The Commission shall also collect all information, in a format determined by the Commission, that the Commission deems necessary to assist in monitoring and analyzing the telecommunications markets and the status of competition and deployment of telecommunications services to consumers in the State.

The Illinois Commerce Commission ("Commission") is mandated to monitor and analyze entry and exit for each relevant market for telecommunications services, including emerging high speed telecommunications markets, and to monitor and analyze the status of deployment of services to consumers, and any resulting "digital divisions" between consumers, including any changes or trends. The Commission is required to evaluate information provided by "telecommunications carriers," but also to provide an analysis of market trends "by collecting this information from firms providing telecommunications services within the State."

In a Staff Report dated January 11, 2010, the Staff of the Telecommunications Division has provided the Commission with an updated Competition Data Request ("CDR") for calendar year 2009. In previous Orders (e.g., 09-0035), the Commission has required all telecommunications carriers providing local exchange or broadband telecommunications services to provide responses to the CDR for that year. Staff was further directed to collect 9-1-1 information in order to monitor the level of telecommunications subscriber connections within each exchange in Illinois as required by 220 ILCS 5/13-301(b).

Apart from updating the pertinent filing and reporting period dates and making non-substantive edits, Staff this year proposes to amend the request in two significant respects. Staff proposes to remove the requirement that companies provide granular information regarding where long distance and mobile wireless service is being provided. The responses to requests for this information in the previous request did not, in Staff's opinion, yield useful information, and detracted from efforts to assess competition in the local telephone and broadband markets. Additionally, Staff has developed an online submission process and proposes to move to this process going forward. In the past, companies have been requested to fill out an Excel spreadsheet

and submit it to Staff through e-mail. Going forward, Staff proposes that companies post information to a secure Commission webpage. The revised submission process will reduce the risk of misdirected e-mail messages, reduce Staff data processing time, and reduce the risk of error associated with the previous methodology (which required a significant amount of manual data processing).

The Staff has recommended that the Commission grant a waiver of the requirement in 83 Ill. Adm. Code 725.400(f), which sets forth certain procedures and restrictions governing non-emergency access to 9-1-1 databases. In response to the Commission's year-end 2006 CDR, several providers of 9-1-1 database services expressed concern that completing Chart 6 of the CDR might involve putative or technical violations of Part 725. To avoid any such possibility, in Docket No. 07-0076, the Commission granted a waiver of the operations of 83 Ill. Adm. Code 725.400(f) for the limited purpose of allowing these providers to complete the Competition Data Request. The Commission sees no reason that the waiver granted in Docket No. 07-0076 should again not be granted this year.

The Commission is satisfied that the Staff has provided support for the recommended changes and accepts the recommendations.

Section 5-101 of the Act, made applicable to the telecommunications carriers offering competitive telecommunications services pursuant to Section 13-101 of the Act [220 ILCS 13-101], reads in relevant part:

Every public utility shall furnish to the Commission all information required by it to carry into effect the provisions of this Act, and shall make specific answers to all questions submitted by the Commission.

The information sought pursuant to the direction of Section 13-407 of the Act is available to the Commission through both Sections 13-407 and 5-101 of the Act.

Based upon the information and recommendations set forth in the Staff Report, and upon the Commission's authority under Section 5-101 of the Act, the Commission will adopt Staff's recommended changes to the current CDR. To that end, the Commission orders all telecommunications carriers providing services within the State of Illinois and all 9-1-1 database providers within the State of Illinois, to respond to the Illinois Commerce Commission Competition Data Request set forth at <https://www.icc.illinois.gov/telecomcdr/default.aspx> ("Web Address") in accordance with the directions at the Web Address, and to do so no later than March 1, 2010. Carriers that are certificated to provide local exchange services but are not currently providing such services must respond by simply indicating such at the Web Address.

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter herein, and jurisdiction of the nature noted herein over entities providing services concerning which the Commission is required to report to the General Assembly under Section 13-407 of the Public Utilities Act;
- (2) all telecommunications carriers providing services within the State of Illinois and all 9-1-1 database providers within the State of Illinois, should respond to the Illinois Commerce Commission Competition Data Request as set forth at <https://www.icc.illinois.gov/telecomcdr/default.aspx> by completing it in accordance with the directions at the Web Address no later than March 1, 2010;
- (3) the Staff Report, dated January 11, 2010 should be filed in this docket and made a part of the record of this proceeding;
- (4) the Commission should grant a waiver of the requirements of 83 Ill. Adm. Code 725.400(f) for the limited purpose of allowing these providers to complete the Competition Data Request; and
- (5) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact.

IT IS THEREFORE ORDERED that all telecommunications carriers providing services within the State of Illinois and all 9-1-1 database providers within the State of Illinois, shall respond to the Illinois Commerce Commission Competition Data Request as set forth at <https://www.icc.illinois.gov/telecomcdr/default.aspx> by completing it in accordance with the directions at the Web Address no later than March 1, 2010.

IT IS FURTHER ORDERED that the Staff Report dated January 11, 2010 shall be filed in this docket and made a part of the record of this proceeding.

IT IS FURTHER ORDERED that a waiver is granted to the affected providers from the requirements of 83 Ill. Adm. Code 725.400(f) for the limited purpose of allowing these providers to complete the Competition Data Request.

IT IS FURTHER ORDERED that the Chief Clerk serve a copy of this Order on the designated agent of each certified telecommunications provider within the State of Illinois.

IT IS FURTHER ORDERED that failure of any telecommunications carrier certified to provide service within the state to submit the responses to the requests for information as ordered may subject that telecommunications carrier to civil penalties pursuant to Section 13-305 of the Public Utilities Act.

IT IS FURTHER ORDERED that, subject to Section 10-110 of the Public Utilities Act, this Order is final; this Order is not subject to the Administrative Review Law.

By Order of the Commission this 21st day of January, 2010.

(SIGNED) MANUEL FLORES

Chairman